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17 **UNITED STATES DISTRICT COURT**
18 **DISTRICT OF NEVADA**

19 Cung Le, Nathan Quarry, Jon Fitch, Brandon
20 Vera, Luis Javier Vazquez, and Kyle
21 Kingsbury on behalf of themselves and all
others similarly situated,

22 Plaintiffs,

23 v.

24 Zuffa, LLC, d/b/a Ultimate Fighting
25 Championship and UFC,

26 Defendant.
27
28

Case No.: 2:15-cv-01045-RFB-BNW

**DECLARATION OF SUZANNE E. NERO
IN SUPPORT OF DEFENDANT ZUFFA,
LLC'S SUPPLEMENTAL BRIEF IN
OPPOSITION TO PLAINTIFFS'
MOTION FOR CLASS CERTIFICATION**

1 I, Suzanne E. Nero, declare as follows:

2 1. I am a member in good standing of the bar of the State of California. I am
3 admitted *pro hac vice* to practice before this Court. I am an Associate in the law firm Boies
4 Schiller Flexner LLP and counsel for Zuffa, LLC (“Zuffa”) in the above-captioned action in the
5 U.S. District Court for the District of Nevada, *Le et al. v. Zuffa, LLC*, No. 2:15-cv-01045-RFP-
6 BNW.

7 2. I make this declaration in support of Defendant Zuffa, LLC’s Supplemental
8 Brief in Opposition to Plaintiffs’ Motion for Class Certification.

9 3. Based on my personal experience, knowledge, and review of the files, records,
10 and communications in this case, I have personal knowledge of the facts set forth in this
11 Declaration and, if called to testify, could and would testify competently to those facts under
12 oath.

13 4. **Exhibit 1** to this Declaration is a true and correct copy of Evidentiary Hearing
14 Exhibit PCCX652 - Steven C. Salop, *The Raising Rivals’ Cost Foreclosure Paradigm*,
15 *Conditional Pricing Practices and the Flawed Incremental Price-Cost Test*, 81 Antitrust L.J. 371
16 (2017).

17 5. **Exhibit 2** to this Declaration is a true and correct copy of excerpts to the
18 deposition of Hal Singer, Ph.D, taken on September 27, 2017.

19 6. **Exhibit 3** to this Declaration is a true and correct copy of Evidentiary Hearing
20 Exhibit PCCX604 - Phillip E. Areeda & Herbert Hovenkamp, *Antitrust Law: An Analysis of*
21 *Antitrust Principles and Their Application* (4th ed. 2017).

22 7. **Exhibit 4** to this Declaration is a true and correct copy of Evidentiary Hearing
23 Exhibit ZCCX201 - Ex 99 Motion for Summary Judgment.

24 8. **Exhibit 5** to this Declaration is a true and correct copy of Evidentiary Hearing
25 Exhibit JCCX39 - David Autor, David Dorn, Lawrence Katz, Christina Patterson, & John Van
26 Reenen, *Concentrating on the Fall of the Labor Share*, 107(5) American Economic Review:
27 Papers & Proceedings 180 (2017).
28

9. **Exhibit 6** to this Declaration is a true and correct copy of Evidentiary Hearing Exhibit PCCX644 - Simcha Barkai, *Declining Labor and Capital Shares* (U. of Chicago, New Working Paper Series No. 2, 2016), available at

<https://research.chicagobooth.edu/~media/5872fbeb104245909b8f0ae8a84486c9.pdf>

10. **Exhibit 7** to this Declaration is a true and correct copy of Evidentiary Hearing Exhibit JCCX56 - Gerald W. Scully, *Player Salary Share and the Distribution of Player Earnings*, 25(2) Managerial and Decision Economics 77 (2004).

11. **Exhibit 8** to this Declaration is a true and correct copy of Evidentiary Hearing Exhibit PCCX549 - Lawrence M. Kahn, *The Sports Business as a Labor Market Laboratory*, 14 Journal of Economic Perspectives 81 (2000).

12. **Exhibit 9** to this Declaration is a true and correct copy of excerpts of the deposition of Alan Manning, taken February 8, 2018.

13. **Exhibit 10** to this Declaration is a true and correct copy of Evidentiary Hearing Exhibit JCCX72 - Richard McGowan & John Mahon, *Demand for the Ultimate Fighting Championship: An Econometric Analysis of PPV Buy Rates*, 6(6) Journal of Business & Economics 1032 (2015).

14. **Exhibit 11** to this Declaration is a true and correct copy of the webpage accessed on September 12, 2019 at the URL - <https://www.abainternational.org/media/jmerscam.aspx> (ABAI Phishing Scam Alert re: Academic Star Publishing Company).

15. **Exhibit 12** to this Declaration is a true and correct copy of the webpage accessed on September 12, 2019 at the URL - <http://www.academicstar.us/journalsshow.asp?ArtID=371> (Academic Star Publishing Journal of Business and Economics Website).

16. **Exhibit 13** to this Declaration is a true and correct copy of the webpage accessed on September 12, 2019 at the URL - https://www.worldcat.org/title/journal-of-business-and-economics/oclc/911567023&referer=brief_results (WorldCat Report for Journal of Business and Economics).

1 17. **Exhibit 14** to this Declaration is a true and correct copy of Evidentiary Hearing
2 Exhibit PCCX475 - Errata to the Expert Report of Andrew Zimbalist in *Cung Le, et al. v.*
3 *Zuffa, LLC*.

4 18. **Exhibit 15** to this Declaration is a true and correct copy of an excerpt of
5 Evidentiary Hearing Exhibit JCCX12 - Explosion Entertainment Strikeforce Event P&L,
6 3/1/2009 - 2/28/2014.

7 19. **Exhibit 16** to this Declaration is a true and correct copy of excerpts of the
8 deposition of Andrew Zimbalist, Ph.D, taken January 26, 2018.

9 20. **Exhibit 17** to this Declaration is a true and correct copy of Evidentiary Hearing
10 Exhibit ZCCX279 - Supplemental Expert Report of Edward E. Leamer, Ph.D., filed in *In re*
11 *High-Tech Employees Antitrust Litig.*, October 1, 2012.

12 21. **Exhibit 18** to this Declaration is a true and correct copy of Evidentiary Hearing
13 Exhibit ZCCX292 - Weight Data for Foreclosure (Ex. 4 to H. Singer Deposition).

14 22. **Exhibit 19** to this Declaration is a true and correct copy of Evidentiary Hearing
15 Exhibit PCCX685 - William M. Boal & Michael R. Ransom, *Monopsony in the Labor Market*,
16 *Journal of Economic Literature* (1997).

17 23. **Exhibit 20** to this Declaration is a true and correct copy of Evidentiary Hearing
18 Exhibit PCCX531 - John Vrooman, *Theory of the Perfect Game: Competitive Balance in*
19 *Monopoly Sports Leagues*, 34 *Review of Industrial Organization* 5 (2009).

20 24. **Exhibit 21** to this Declaration is a true and correct copy of excerpts of the
21 deposition of Hal Singer, Ph.D, taken January 23, 2018.

22 25. **Exhibit 22** to this Declaration is a true and correct copy of excerpts of the
23 deposition of Andrew Zimbalist, Ph.D, taken September 25, 2017.

24 26. **Exhibit 23** to this Declaration is a true and correct copy of Evidentiary Hearing
25 Exhibit ZCCX249 - Phillip Areeda, Herbert Hovenkamp, Roger D. Blair, & Christine Plette
26 Durrance, *Antitrust Law: An Analysis of Antitrust Principles and Their Application* (4th ed.
27 2014), Volume IIA.
28

I declare under penalty of perjury under the laws of the United States of America that the foregoing facts are true and correct. Executed this 12th day of September, 2019 in Las Vegas, Nevada.

Case No.: 2:15-cv-01045-RFB-BNW